

EXHIBIT 78

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1 Tuesday, April 24, 2007, 6:05 p.m.

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3 MR. BRUNET: Hello, everyone. The agenda for today
4 references the one that was circulated by Mr. Suh.

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16 evidence if obtained and when it is preferred as
17 evidence in the arbitration proceeding, then the panel
18 must rule on its admissibility as evidence."

19 And it seems to me that the results of the
20 retesting which you have provided to the panel have not
21 been provided to the panel by USADA yet. It may intend
22 to, but we don't have that indication at this point in
23 time. I would be -- although I understand very clearly
24 the pressing issues that you're raising, but it seems to
25 me that it would be premature for the panel to be

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1 receiving briefs by both parties at this point in time
2 as a preliminary matter for evidence that has not been
3 preferred by one of the parties. And those are my
4 observations at this point, and we want to be consistent
5 as well with our previous ruling.

6 MR. JACOBS: If I can just finish. I'm looking at
7 the interlocutory award. And in paragraph 19 it says,
8 "the interests of the athlete are protected in
9 permitting an analysis of the B samples through the role
10 of the panel's expert." That was clear to us, and I
11 thought to the panel as well, that this meant that this
12 retesting, if it went forward, would be in the presence
13 of the panel's expert.

14 It's one thing to say that the panel does not
15 have jurisdiction to prevent the evidence, but certainly
16 the panel has the jurisdiction to make sure that the
17 evidence it gets is legitimate evidence.

18 MR. BRUNET: With all due respect, Mr. Jacobs, I do

19 not understand our interlocutory award to specifically
20 request that a panel expert would be present at every
21 step of the retesting of the B sample. Our experts is
22 there to review the process and to advise the panel on
23 the various technical issues, including additional
24 evidence that may be preferred with the B sample. But
25 we're not there yet.

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1 MR. CAMPBELL: Patrice, here's my thrust. You've
2 got rules, and those rules are USADA protocol and WADA
3 protocol (phonetic.) Those rules say that, when you
4 test B samples, certain things have to happen. All
5 right? Now, if certain things don't happen, it seems to
6 me we have jurisdiction to determine that. It seems to
7 me we have jurisdiction to determine that any time,
8 which would include now. So I think we should determine
9 that because there's an issue in regards to whether
10 those rules were followed. The WADA code and USADA code
11 with respect to doping issues.

12 MR. SUH: Mr. Brunet, I guess my only observation on
13 paragraph 19 was that even USADA understood that the
14 panel's expert was due to be present because in their
15 letter to the panel, USADA itself said for the purpose
16 of coordinating with the panel's expert, we're going to
17 begin this retesting process on April 16. And it is not
18 clear to us how it is possible that the panel expert
19 could protect the interest of the athlete without being
20 present when the retesting is being done.

21 MR. JACOBS: And if I can add, a perfect example of
22 this dispute that we seem to be working up to now over